APPENDICES

The following appendices collect and summarize materials in the Congressional Record, House and Senate reports and hearings, bills introduced in the Congress and other public materials—particularly the magazine of the Reserve Officers Association. The materials show a number of instances where Congressmen's reserve office has influenced their legislative conduct, the classic form of conflict of interest.*

---

*The following members of the 93d Congress are members of the Reserve Officers Association, which has filed a Brief Amicus Curiae in this case:

Montgomery, Gillespie V.
Carey, Hugh L.
Chappell, Bill, Jr.
Frey, Louis J.
Hogan, Lawrence J.
Maillard, William S.
Murphy, John M.
Pell, Claiborne
Satterfield, David E., III
Spence, Floyd D.
Stratton, Samuel S.
Chamberlain, Charles E.
Dominick, Peter H.
Ichord, Richard H.
Myers, John I.
Bevil, Tom D.F.
Blackburn, Ben. B.
Flynt, John J., Jr.
Hart, Philip A., Jr.
Hunt, John E.
Javits, Jacob K.
Mann, James R.
Moorhead, Carlos J.
Rhodes, John J.
Robinson, James K.
Sebelius, Keith G.
Sikes, Robert F.
Stafford, Robert I.
Williams, Harrison A., Jr.
Wright, James C., Jr.
Zablocki, Clement, J.
Albert, Carl B.
Bray, William G.
Cannon, Howard N.
Goldwater, Barry M.
Nichols, William F.
Sparkman, John J.
Teague, Olin E.
Thurmond J. Strom
Wyman, Louis C.

APPENDIX A

Defeat of the 1965 Reserve Merger Plan

In 1965, Secretary of Defense Robert McNamara attempted to rationalize the armed forces Reserves by means of a proposed merger of the Army Reserve into the National Guard in order to eliminate duplication of Reserve components. McNamara did not seek express Congressional approval for this proposal, deeming that this was a matter within his discretion, requiring only a Congressional appropriation for the merged components.[1] The merger would have resulted in a saving of $150,000,000 by eliminating 150,000 Reserve places that were unnecessary in the Defense Department's war contingency plans.[2]

McNamara's plan was defeated by the extraordinary enactment in the 1966 DOD appropriations act of an amendment making maintenance of the two separate Reserve components mandatory.

The legislative history of the amendment reflects the conflict of interest of Congressmen-Reservists. The Preparedness Investigating Subcommittee began hearings on the proposal on March 1, 1965. The members of the Subcommittee were Sen. Symington (D-Missouri); Sen. Jackson (D-Washington); Sen. Saltonstall (R-Massachusetts); Sen. Smith (R-Maine); Sen. Thurmond (R-South Carolina) and was chaired by Sen. Stennis (D-Mississippi). Only Sen. Thurmond was a Reservist, an Army Major Gen-

---

[1] Senate Preparedness Investigating Subcommittee of the Committee on Armed Services. *Hearings on a Proposal to Realine the Army National Guard and the Army Reserve Forces*, 89th Cong., 1st Sess., pt. 1 at 6 (1965) (hereinafter 1965 Senate Hearings).

[2] At the time of the proposed merger there were 700,000 paid drill spaces allocated to Reserve components, 400,000 in the National Guard and 300,000 in the Army Reserve. War plans provided for 498,500 men from Reserve components.

eral. But Reservists on the full committee were Sen. Cannon (D-Nevada), Brigadier General, USAR; Sen. Inouye (D-Hawaii), Major, USAR; Sen. Miller (R-Iowa), Colonel, USAR; Sen. Tower (R-Texas), Boatswain's Mate, Third, USNR and Sen. Thurmond.

Moreover, Sen. Cannon and three other Reservists—Senators Inouye (Major, USAR), Miller (then Colonel, USAR—now Major General), and Fong (Colonel, USAR) —sat with the Subcommittee during the hearings. When the hearings began, five of the 11 Senators present were high-ranking Reserve officers,[3] and Sen. Cannon joined the Subcommittee after the hearings but before it reported.[4]

During the hearings the Reserve officers-Senators took an active part. They were hostile to the witnesses supporting the merger and friendly to its opponents. For example, General Kaine, USAR (Commanding General, 77th Inf. Div. N.Y.), who spoke against the proposal, was lauded as a "real citizen-soldier." The General was thanked by Senator Thurmond for his testimony:

> "General, on behalf of the subcommittee, we wish to express our deep appreciation to you for coming here today. And I want to commend you for your splendid service in peacetime. We appreciate the splendid service of all of our peacetime soldiers. I was in the Reserve for 36 years and just retired January 1 of this year. And I know how much time the citizen-soldier gives to the service. I think I gave probably a fourth to a third of my time putting the extra hours. And I

---

[3] 1965 Senate Hearings, pt. 1 at 1 (1965).

[4] Senate Preparedness Investigating Subcommittee, *Report on the Personnel, Training Equipment, and Readiness Status of Army Reserve Components*, 89th Cong., 2d Sess., (1966).

especially want to commend you for your able leadership and for the magnificent statement you made today."[5]

In the House, Subcommittee Number Two of the Armed Services Committee had responsibility for this question. One-third of the members of the Subcommittee were Reserve officers: William G. Bray (R-Indiana), Colonel, USAR (Ret.); Robert C. Wilson (R-California), Major, MCR (active); and Alexander Pirnie (R-New York), Colonel, USAR (Ret.).

During the House hearings, Frank E. Weil of the American Veterans' Committee supported the proposed merger. He stated, in response to a question put by Congressman Pirnie—a Reservist—that he felt that it was a conflict of interest for a Congressman to be a Reserve officer:

WEIL: ". . . I would say that some conflict of interest might arise."

PIRNIE: "The oath of a Congressman and the oath of a Reserve are quite similar, aren't they?"

WEIL: "Yes, sir."

PIRNIE: "Could you imagnie anyone up here having a conflict of interest with the security of the United States? Isn't that what we are charged with doing?"

WEIL: "Yes, sir. . . . I could think of Congressman X thinking that his views as a legislator as Congressman X would incline him to go one way, while his views as Lieutenant Colonel X would incline him to go a different way . . . I would like to have his views as Congressman X."

PIRNIE: "Well, wouldn't the witness understand that his views as a Lieutenant Colonel would have very little weight in this Defense Department?"

---

[5] 1965 Senate Hearings.

WEIL: "Yes."

PIRNIE: "Then he is expressing his views as a Congressman, isn't that true?"[6]

The merger was discussed at length on the floors of both Houses. With one exception,[7] the comments were against the proposal. Representative Robert Sikes (D-Florida), for example, spoke against Secretary McNamara's "usurpation" of the power of Congress to regulate the Reserves and argued the desirability of the dual Reserve system.[8] Representative Sikes was and is a Major General, USAR (Ret.) and is a member of the Reserve Officers' Association Hall of Fame.

One of the most vocal and outspoken Congressional opponents of the merger was Hastings Keith (R-Massachusetts), a retired Reserve Army Colonel. Representative Keith, both on the floor and in committee as a witness, openly acknowledged his special interest in the proposal:

> "Mr. Speaker, as a member of Congress who has also been a Reserve officer for 25 years, I have more than the usual amount of interest in Secretary McNamara's proposal realignment of the Army Reserve and National Guard."[9]

In the Subcommittee hearings he declared, "I speak to you as a member of Congress . . . I also speak to you as a member of the Army Reserve."[10]

---

[6] House Subcommittee No. 2 of the Committee on Armed Services, *Hearings on Merger of the Army Reserve Components*, 89th Cong., 1st Sess. at 4445-46 (1965) (hereafter 1965 House Hearings).

[7] 111 Cong. Rec. at 1053 (1965) (Sen. Stephen Young).

[8] *Ibid.*, at 639-41.

[9] 111 Cong. Rec. at 3977 (1965).

[10] 1965 House Hearings at 4219-20.

APPENDIX B

Reservist-Congressmen's Support of the Reserve Officers Association's Legislative Programs

The Reserve Officers Association, which claimed approximately 70,000 members in 1973, has supported numerous bills that favor servicemen in general, and reservists in particular.[1] According to former national president Robert Upp, the Association's

> . . . only reason for being is 'to support a military policy for the United States that will provide adequate national security . . . .'
>
> Under our republican form of government, this can be managed best by the skillful application of the art of legislative advocacy through our nation's elected representatives.[2]

ROA lobbyists like Executive Director Carlton, a former administrative assistant to Senators George Smathers and Walter George,[3] frequently aim their appeals at Reservists-Congressmen, some of whom are also ROA members. (p. 1a, *supra*). These appeals are often successful.

1. The Fight for "Recomputation"

Until 1958, with minor exceptions, retired military pay was increased in step with and at the same rate as active duty pay.[4] In 1958, however, substantial active duty pay raises were not matched by the usual increase in retired pay. In 1963, Congress formally abandoned its practice of recomputing retirement pay on the basis of active duty pay increases; instead, Congress began to adjust retired pay according to increases in the Consumer Price Index.

---

[1] *The Officer*, July, 1973, at 10.

[2] *The Officer*, December, 1972, at 3.

[3] *The Officer*, August, 1971, at 26.

[4] *The Officer*, May, 1968, at 12.

Pre-1958 retirees were given the option of a single recomputation of their retired pay on the basis of 1963 pay schedules.[5]

At that time, R.O.A. seemed satisfied with this arrangement. Senator John Stennis (D-Mississippi) later noted that, "Congress did exactly what it was asked to do by the Reserve Officer's Association and the others. . . ."[6] Recently, however, R.O.A. has tried to persuade Congress to restore the pre-1958 recomputation system.

The effort began in the 91st Congress.[7] Shortly after the 92d Congress convened in February, 1971, R.O.A. announced that, "We have recomputation on the front burner. . . . No one can predict the outcome, but if we lose it, it won't be because the R.O.A. staff hasn't used all the muscle we possess to this end."[8] In April, 1971,

---

[5] 118 *Cong. Rec.* S12,294 (daily ed. July 31, 1972).

[6] *Id.* at S12,293.

[7] Many Reservist-Congressmen introduced recomputation bills during the 91st Congress; none were enacted. Reservist-Congressmen sponsoring recomputation legislation included: Robert Wilson (R-California) (H.R. 387, 91st Cong., 1st Sess. (1969); H.R. 10,764 91st Cong., 1st Sess. (1969)); Robert Sikes (D-Florida) (H.R. 3,116, 91st Cong., 1st Sess. (1969); H.R. 3,327, 91st Cong., 1st Sess. (1969)); John Tunney (D-California) (H.R. 3791, 91st Cong., 1st Sess. (1969); H.R. 3,791, 91st Congress, 1st Sess. (1969); H.R. 4,186, 91st Cong., 1st Sess. (1969); H.R. 5,547, 91st Cong., 1st Sess. (1969); H.R. 5,815, 91st Cong., 1st Sess. (1969); H.R. 6,174, 91st Cong., 1st Sess., (1969)); O. C. Fisher (D-Texas) (H.R. 3,791, 91st Cong., 1st Sess., (1969)); Spark Matsunaga, (D-Hawaii), (H.R. 4,186, 91st Cong., 1st Sess. (1969)); William Nichols, (D-Alabama), (H.R. 5,547, 91st Cong., 1st Sess. (1969)); John Flynt, (D-Georgia), (H.R. 5,815, 91st Cong., 1st Sess. (1969)); Alphonzo Bell (R-California), (H.R. 6,174, 91st Cong., 1st Sess. (1969)); Sam Gibbons (D-Florida), (H.R. 14,371, 91st Cong., 1st Sess. (1969)); Charles Bennett (D-Florida), (H.R. 14,621, 91st Cong., 1st Sess. (1969)); and Fernand St. Germain (D-Rhode Island) (H.R. 19,498, 91st Cong., 2d Sess. (1970)).

[8] *The Officer*, February, 1970, at 26.

R.O.A. endorsed S. 377, the recomputation bill of Reservist-Senator John Tower (R-Texas).[9] Other Reservist-Senators who sponsored the measure included Gordon Allott (R-Colorado); J. Glenn Beall (R-Maryland); W. E. Brock (R-Tennessee); Howard Cannon (D-Nevada); Peter Dominick (R-Colorado); Robert Dole (R-Kansas); Hiram Fong (R-Hawaii); Barry Goldwater (R-Arizona); Edward Gurney (R-Florida); Daniel Inouye (D-Hawaii); Warren Magnuson (D-Washington); Charles Mathias (R-Maryland); Frank Moss (D-Utah); James Pearson (R-Kansas); Hugh Scott (R-Pennsylvania); John Sparkman (D-Alabama); Strom Thurmond (R-South Carolina); John Tunney (D-California); and Claiborne Pell (D-Rhode Island).[10]

In the House, Reservist-Representatives also authored or sponsored recomputation bills. They included: Charles Bennett (D-Florida) (H.R. 522);[11] Ben Blackburn (R-Georgia) (H.R. 608);[12] O. C. Fisher (D-Texas) (H.R. 711);[13] Don Fuqua (D-Florida) (H.R. 724);[14] Spark Matsunaga (D-Hawaii) (H.R. 872);[15] John Flynt (D-Georgia) (H.R. 1,290);[16] Robert Sikes (D-Florida) (H.R. 1,666);[17] Craig Hosmer (R-California) (H.R. 2,308);[18] William Nichols (D-Alabama) (H.R. 2,344);[19] Richard Fulton (D-

---

[9] 92d Cong., 1st Sess. (1971). *The Officer*, April, 1971, at 24.

[10] *CCH Congressional Index—92d Congress.*

[11] 92d Cong., 1st Sess. (1971).

[12] 92d Cong., 1st Sess. (1971).

[13] 92d Cong., 1st Sess. (1971).

[14] 92d Cong., 1st Sess. (1971).

[15] 92d Cong., 1st Sess. (1971).

[16] 92d Cong., 1st Sess. (1971).

[17] 92d Cong., 1st Sess. (1971).

[18] 92d Cong., 1st Sess. (1971).

[19] 92d Cong., 1st Sess. (1971).

Tennessee) (H.R. 5,452);[20] Robert Wilson (R-California) (H.R. 6,197);[21] Alphonzo Bell (R-California) (H.R. 6,509);[22] Sam Gibbons (D-Florida) (H.R. 7,186);[23] William Chappel, Jr. (D-Florida) (H.R. 16,216);[24] and Burt Talcott (R-California) (H.R. 14,643).[25]

None of these bills were enacted, in part because recomputation is enormously expensive. Defense Department cost estimates of some proposals have ranged between ten and twenty-three billion dollars.[26] Nevertheless, Reservist-Senator Vance Hartke (D-Indiana) met with some success when he offered a recomputation amendment to the Military Procurement Authorization for fiscal 1973. Hartke's amendment was strongly supported by Strom Thurmond (R-South Carolina), a Reservist-Senator receiving retired pay.[27] Thurmond, a former R.O.A. President and Minute Man of the Year, enlisted the Association's support:

> Almost incredibly, Senator Thurmond called to report that the amendment to the Military Procurement bill—the amendment emerging under Sen. Vance Hartke's name from the Veterans Committee of the Senate—had a good chance of passage if our people got busy in the grass roots. This was the measure 'everybody' had said would never pass, but on which R.O.A. had never thrown in the towel.

---

[20] 92d Cong., 1st Sess. (1971).

[21] *Id.*

[22] *Id.*

[23] *Id.*

[24] 92 Cong., 2d Sess. (1972).

[25] *Id.*

[26] *The Officer*, September, 1972, at 4; *The Officer*, May, 1971, at 25.

[27] 118 *Cong. Rec.* S12,395 (daily ed. August 1, 1972).

> Our message went out on a Friday, and over the weekend I [Executive Director Carlton] received several telephone calls from excited but incredulous members. All over the country, our Retirement Committee members burned the wires and the best evidence was that on Tuesday [August 1, 1971] the Senate adopted the Hartke amendment by a vote of 82 to four—a margin sufficiently convincing to permit senators Thurmond, Goldwater and Fong to abstain.[28]

The amendment, nevertheless, died in a House-Senate conference. R.O.A., however, has not "thrown in the towel" on recomputation. The issue survives as one of the goals in the Association's ten-point program.[29] Reservist-Congressmen have re-introduced recomputation measures in the 93rd Congress.[30]

The continuing campaign for recomputation was recently set back by the publication of an unfavorable report by the House Special Subcommittee on Retired Pay Revisions, chaired by Rep. Samuel Stratton (D-New York),

---

[28] *The Officer*, September, 1972, at 5. The three are of course reservists and Senators Goldwater and Thurmond are members of R.O.A.

[29] *The Officer*, January, 1973, at 8.

[30] Reservist-Congressmen who sponsored or introduced recomputation bills in 1973 include Sen. John Tower (R-Texas) (S. 762, 93rd Cong., 1st Sess. (1973); S. 838, 93rd Cong., 1st Sess. (1973)); Sen. Vance Hartke (D-Indiana (S. 762, 93d Cong., 1st Sess. (1973); S. 838, 93d Cong., 1st Sess. (1973)); Sen. Strom Thurmond (R-South Carolina) (S. 762, 93d Cong., 1st Sess. (1973)); Sen. Edward Gurney (R-Florida) (S. 762, 93d Cong., 1st Sess. (1973)); Sen. Frank Moss (D-Utah) (S. 762, 93d Cong., 1st Sess. (1973)); Sen. J. Glenn Beall, Jr. (R-Maryland) (S. 762, 93d Cong., 1st Sess. (1973)); Sen Robert Dole (R-Kansas) (S. 838, 93d Cong., 1st Sess. (1973)); Rep. Charles Bennett (D-Florida) (H.R. 293, 93d Cong., 1st Sess. (1973)); Rep. Spark Matsunaga (D-Hawaii), (H.R. 749, 93d Cong., 1st Sess. (1973)); Rep. Craig Hosmer (R-California), (H.R. 1,565, 93d Cong., 1st Sess. (1973)); Rep. Don Fuqua (D-Florida) (H.R. 5,504, 93d Cong., 1st Sess. (1973)); Rep. Richard Fulton (D-Tennessee) (H.R. 7,466, 93d Cong., 1st Sess. (1973)).

a Captain in the Navy Reserves. The report was strongly criticized in the February 1973 issue of *The Officer*, R.O.A.'s official magazine.[31] Stratton replied in the May *Officer* that while the subcommittee had not recommended recomputation for active duty officers, it had favored consideration of measures to give *Reserve officers* an earlier equity in their retirement pay.[32] Stratton could have added that the subcommittee also supported legislation to give some pre-1949 Reservist-retirees additional retirement pay.[33] This legislation had been specifically recommended by R.O.A.[34]

2. The Fight to Save the Coast Guard Reserve

In 1970, President Nixon's budget contained no funds for the Coast Guard Selected Reserves.[35] The President suggested, in a separate message to Congress, that these Reserves be phased out by the end of fiscal 1971.[36] The resultant savings to taxpayers would amount to approximately $25,000,000.[37] Through testimony by Executive Director Carlton, R.O.A. expressed its shock to the House and Senate Armed Services Committees that President Nixon would recommend this reduction in force.[38]

Many Reservist-Congressmen opposed the President's proposal. Rep. Sikes (D-Florida), a retired Army Reservist, called the Coast Guard Reserve "an essential element of our defense team."[39] Senator Claiborne Pell (D-

---

[31] *The Officer*, February, 1973, at 8.

[32] *The Officer*, May, 1973, at 9.

[33] *The Officer*, February, 1973, at 8.

[34] *Id.*

[35] *The Officer*, April, 1970, at 31.

[36] *Id.*

[37] *The Officer*, June, 1970, at 5.

[38] *The Officer*, April, 1970, at 31.

[39] 116 *Cong. Rec.* 11,691 (1970).

Rhode Island), a 29-year Coast Guard Reservist, conceded his lack of objectivity but nonetheless denounced the Nixon proposal and suggested that the Coast Guard Reserve be funded through the Defense budget, rather than the Department of Transportation appropriations, because "[t]he reality of the situation is simply that the Secretary of Transportation cannot be expected to defend the Coast Guard as vigorously as he should."[40]

On April 8, 1970, Reservist-Representative Charles Bennett introduced H.R. 16,846, which would transfer the Coast Guard to the Department of Defense.[41] According to Executive Director Carlton, the idea for the bill came from R.O.A.:

> Charlie Bennett, we think, got the idea from some people in ROA. We know he was engaged in animated conversation with Si Treib, of Miami, at the Mid-Winter meeting, and then he's talked to some other people in Washington since.
>
> ROA's Legislative Chairman, in his report to the National Council, had said we might work toward getting the Coast Guard Reserve, which is being trained for National Emergency use, transferred to the Department of Defense.[42]

Other Reservist-Congressmen also sponsored legislation designed to save the Coast Guard Reserve. The House Armed Services Committee authorized a Coast Guard Selected Reserve strength of 16,590.[43] Eight of the Commit-

---

[40] 116 *Cong. Rec.* 6,491 (1970). Pell's remarks were also printed in *The Officer*, May 1970 at 7.

[41] 91st Cong., 2d Sess. (1970).

[42] *The Officer*, May, 1970, at 8.

[43] 116 *Cong. Rec.* 17,322 (1970).

tee's twenty-five members were Reservists.[44] After a conversation with Executive Director Carlton, Representative Tom Steed (D-Oklahoma) offered an amendment to the Department of Transportation appropriations bill to increase the House Appropriations Committee recommendations for Coast Guard Reserve funds from $17.5 to $25.9 million.[45] The amendment was actively supported by Reservist-Representatives Robert Sikes (D-Florida), Charles Bennett (D-Florida), and Alexander Pirnie (R-New York).[46]

In early 1971, R.O.A. Legislative Chairman Donald Dawson announced that the Association would continue its support for the Coast Guard Reserve in fiscal 1972:

> . . . already there are in motion steps to save the Select Reserve of the Coast Guard again, and we have every reason to believe that once again we shall succeed and that the Congress will provide the authority and the funds for this important program.
>
> What in the world has deluded certain individual bureaucrats in the government in the thought that we can let that one slip by?[47]

In his 1972 budget, President Nixon requested funds for only 5,000 Coast Guard Select Reservists in order to phase out the entire program by the end of fiscal 1972.[48] The proposal was defeated.

---

[44] House of Representatives *List of Standing Committees*, H.R. Print 37-071 (May 14, 1970).

[45] *The Officer*, September, 1970 at 12; 116 *Cong. Rec.* 17,320 (1970).

[46] 116 *Cong. Rec.* 17,322-3 (1970).

[47] *The Officer*, March, 1971 at 31.

[48] 117 *Cong. Rec.* 12,513 (1971).

Reservist-Representative Alexander Pirnie (R-New York) introduced another bill (H.R. 9,023) to transfer the Coast Guard to the Department of Defense.[49] Other Reservist-Congressmen were busy with proposals to justify appropriations for the Coast Guard Reserves by giving that body an expanded peacetime mission. On September 27, 1971, Reservist-Senator Harrison Williams, Jr. (D-New Jersey) introduced S. 2,600, authorizing the involuntary recall of the Coast Guard Ready Reserve (which includes the Selected Reserve) in times of natural disaster.[50] Senator Williams explained the bill's purpose in a speech on the Senate floor:

> A major reason I advanced [in the previous Congress] for maintaining the Coast Guard Ready Reserve at approximately its existing strength was because of the vital mission that agency can perform in our war against pollution and environmental problems[51]
>
> Today I am pleased to offer a bill, S. 2,600 which would greatly facilitate the use of our Coast Guard Ready Reserve for those duties.[51]

Reservist-Senator Warren G. Magnuson (D-Wash.) later introduced a similar bill, S. 3,591.[52] Identical or similar bills which were introduced in the House during 1971-1972 included H.R. 9,830 (by Reservist-Representative Alexander Pirnie (R-New York);[53] H.R. 9,854 (sponsored by Reservist-Representatives John Hunt (R-New Jersey), Frank Horton (R-New York), John Rhodes, (R-Arizona), John Say-

---

[49] 92d Cong., 1st Sess. (1971).

[50] *Id.*

[51] 117 *Cong. Rec.* S15,155 daily ed. September 28, 1971).

[52] 92d Cong., 2d Sess. (1972).

[53] 92d Cong., 1st Sess. (1971).

lor (R-Pennsylvania), and Joe Waggoner, Jr. (D-Louisiana)),[54] and H.R. 14,891 (sponsored by Reservist-Representatives Frank Clark (D-Pennsylvania) and Hastings Keith (R-Massachusetts).[55] The latter bill was enacted as Pub.L. No. 92-479, 92d Cong., 2d Sess. (1972).

The President's 1973 proposal met its end in Title III of H.R. 8,687, which authorized 15,000 members for the Coast Guard Select Reserve.[56] The measure was supported by Reservist-Representative O. C. Fisher (D-Texas), who chaired the House Armed Services Subcommittee responsible for Reserve affairs.[57] Reservist-Representative Alexander Pirnie (R-New York) continued his advocacy for a strong Coast Guard Reserve in a speech praising H.R. 8,687.[58] Pirnie was later hailed as the "savior of the Coast Guard Reserve" by the New York Coast Guard Chapter of R.O.A.[59]

Although the Title III authorization did not quite match R.O.A.'s recommendations, the Association could still consider its efforts successful.[60] The February, 1972 issue of *The Officer* reported that the Administration had abandoned its plan to abolish the Coast Guard Selected Reserve for the immediate future.[61]

---

[54] *Id.*

[55] 92d Cong., 2d Sess. (1972).

[56] *The Officer*, January, 1972 at 8.

[57] 117 *Cong. Rec.* 19,958-9 (1971).

[58] *Id.*, at 19,961.

[59] 117 *Cong. Rec.* E12,973 (daily ed. December 3, 1971).

[60] R.O.A. had recommended a 16,590 man authorization for the Coast Guard Selected Reserve. *The Officer*, June, 1971 at 28.

[61] *The Officer*, February, 1972 at 3.

3. R.O.A.'s Right to Exempt Its Headquarters—the Minute Man Memorial Building—from Taxation by the District of Columbia

During the 90th, 91st, and 92nd Congresses, Reservist-Representative Robert Sikes (D-Florida) sponsored legislation to free R.O.A.'s headquarters from District of Columbia real estate taxes. Sikes, a former Minute Man of the Year, frequently supports R.O.A. causes. According to the June, 1970 *Officer*, "It is no secret, either in R.O.A. or the Congress, that when we need a real champion in the House, the one to go to is Bob Sikes."[62] According to an earlier *Officer*, Sikes had "the unique distinction of having successfully carried on a campaign among the Members of Congress to obtain contributions to our Minute Man Memorial Building."[63]

Rep. Sikes made his first attempt on October 1, 1968, when he introduced H.R. 20,128 which died in the House District Committee.[64] Rep. Sikes introduced a similar bill, H.R. 2,198, in the next Congress and testified before the Committee in its support.[65] He spoke at length of the great symbolic importance of the Minute Man Memorial Building in perpetuating the "George Washington American Military tradition." He spoke of R.O.A.'s "substantial contributions to the economy of the District." For example, the Association's twenty employees spend their salaries in the District. Representative Sikes pleaded that to spare the R.O.A. building "from taxation by the government it seeks to defend" would only be "simple justice," adding that it would be "inconsistent, unnecessary, and unjust" to tax

---

[62] *The Officer*, June, 1970 at 9.

[63] *The Officer*, April, 1969 at 13.

[64] 90th Cong., 2d Sess. (1968).

[65] 91st Cong., 1st Sess. (1969).

"this great national monument."[66] The bill died in committee.

Rep. Sikes tried again in the next Congress. This time his bill, H.R. 456, 92nd Cong., 1st Sess. (1971), was favorably reported out of the House District of Columbia Committee, on September 23, 1971.[67] In the Senate District Committee, the bill received strong support from Reservist-Senator John Tunney (D-California). The September, 1972 *Officer* described Tunney's assistance in glowing terms:

> Our National President, Brig. Gen. Bob Upp was in town and we went to see Sen. John Tunney, the son of the great world heavyweight champ, and perhaps more importantly, a personal friend of the Upps.
>
> Just like that, Sen. Tunney said he knew about the bill, understood the principle involved, and was all for it. He called in his legislative assistance [sic], Jerry Hill and machinery went into motion.
>
> At hearings just two weeks later, with Sen. Tunney the chairman, we made the case for the record, and the bill was soon on the way. No fanfare, no unnecessary conversations, but a warm, warm feeling that after two frustrating years, the Sikes bill was on its way, and Mr. Tunney, of California, joined our list of heroes.[68]

The bill did not pass. Rep. Sikes has made no attempt so far in the 93d Congress to secure a tax exemption for the Association's headquarters.

---

[66] Statement of the Honorable Robert F. Sikes before the District of Columbia Committee of the House of Representatives, June 17, 1969. The hearings were not printed.

[67] H.R. Rep. No. 507, 92d Cong., 1st Sess. 1 (1971).

[68] *The Officer*, September, 1972 at 5.

APPENDIX C

Legislation Introduced by Reservist-Congressmen Providing Benefits for Reservists

This appendix lists some recent legislation, sponsored or authored by Reservist-Congressmen, which benefits the Reserves or reservists. These bills include:

Efforts to expand Reservist coverage under Servicemen's Group Life Insurance:

Senate bills:

S. 3,549, 92nd Cong., 2d Sess. (1972). Provides full-time S.G.L.I. coverage to Reservists and some Retired Reservists to age 60. (Sen. John Tower (R-Texas)).[1]

S. 1,835, 93rd Cong., 1st Sess. (1973). Increases amount of S.G.L.I. coverage, and extends full time coverage to some Reservists and National Guardsmen. (Sen. Vance Hartke (D-Indiana); Sen. Robert Stafford (R-Vermont); and Sen. Strom Thurmond (R-South Carolina).[2]

House bills:

H.R. 6,737, 91st Cong., 1st Sess. (1969). Provide S.G.L.I. to Reservists and National Guardsmen during full-time training or duty. (Rep William Bray (R-Indiana)).[3]

H.R. 13,168, 92nd Cong., 2d Sess. (1972). Extends full-time S.G.L.I. coverage to Reservists, National Guardsmen, and some retired Reservists to age 60. (Rep. G. V. Montgomery (D-Mississippi)).[4]

---

[1] 118 *Cong. Rec.* S6,745 (daily ed. April 27, 1972).

[2] *CCH Congressional Index—93d Congress.*

[3] *CCH Congressional Index—91st Congress.*

[4] *CCH Congressional Index—92d Congress.*

H.R. 14,742, 92nd Cong., 2d Sess. (1972). Identical to H.R. 13,168. (Rep. G. V. Montgomery (D-Mississippi); Rep. Olin Teague (D-Texas); Rep. John Saylor (R-Pennsylvania); Rep. Chalmers Wylie (R-Ohio), Rep. John Hammerschmidt (R-Arkansas); Rep. David Satterfield (D-Virginia)).[5]

H.R. 825, 93rd Cong., 1st Sess. (1973). Extend full-time S.G.L.I. coverage to Reservists, National Guardsmen, and some retired Reservists. The bill was endorsed by R.O.A. (Rep. G. V. Montgomery (D-Mississippi)).[6]

H.R. 3,473, 93rd Cong., 1st Sess. (1973). Extend full-time S.G.L.I. coverage to Reservists, National Guardsmen, and some retired Reservists. (Rep. Bill Nichols (D-Alabama)).[7]

H.R. 6,574, 93d Cong., 1st Sess. (1973). Extend full-time S.G.L.I. coverage to Reservists, National Guardsmen, and some retired Reservists. (Rep. G. V. Montgomery (D-Mississippi); Rep. John Hammerschmidt (R-Arkansas); Rep. Olin Teague (D-Texas); Rep. Ray Roberts (D-Texas); Rep. John Saylor (R-Pennsylvania); Rep. Chalmers Wylie (R-Ohio)).[8]

H.R. 6,795, 93rd Cong., 1st Sess. (1973). Similar to H.R. 6,574. (Rep. G. V. Montgomery (D-Mississippi)).[9]

---

[5] *Id.*

[6] *CCH Congressional Index—93d Congress; The Officer*, April, 1973, at 6.

[7] *CCH Congressional Index—93d Congress.*

[8] *Id.*

[9] *Id.*

H.R. 7,517, 93rd Cong., 1st Sess. (1973). Similar to H.R. 6,574. (Rep. Burt Talcott (R-California)).[10]

Bills to allow Reservists to receive retirement pay before age 60—the current[11] minimum age at which retirement pay may be received for nonregular service:

Senate bills:

S. 2,767, 92nd., 1st Sess. (1971). Provides payment of retirement pay actuarily computed to persons otherwise eligible at age 50. (Sen. Strom Thurmond (R-South Carolina); Sen. J. Glenn Beall, Jr. (R-Maryland); Sen. Jacob Javits (R-New York); Sen. John Tower (R-Texas)).[12]

S. 330, 93rd Cong., 1st Sess. (1973). Identical to S. 2,767. (Sen. Strom Thurmond (R-South Carolina)).[13]

House bills:

H.R. 16,288, 91st Cong., 2d Sess. (1970). Allows Reservists and National Guardsmen to receive retirement pay at age 55. (Rep G. V. Montgomery (D-Mississippi)).[14]

H.R. 942, 92nd Cong., 1st Sess. (1971). Similar to H.R. 16,288. (Rep. G. V. Montgomery (D-Mississippi)).[15]

H.R. 6,128, 92d Cong., 1st Sess. (1971). Eliminates the requirement that an individual must be age 60 or over to receive retirement pay for nonreg-

---

[10] *Id.*

[11] 119 *Cong. Rec.* S454 (daily ed. January 11, 1973).

[12] *CCH Congressional Index—92 Congress.*

[13] 119 *Cong. Rec.* S454 (daily ed. January 11, 1973).

[14] *CCH Congressional Index—91st Congress.*

[15] *CCH Congressional Index—92d Congress.*

ular service. (Rep. Richard Fulton (R-Tennessee)).[16]

H.R. 13,642, 92d Cong., 2d Sess. (1972). Allows payment of retired pay at reduced percentages for non regular service to persons otherwise eligible at age 50. (Rep. Charles Bennett (D-Florida)).[17]

H.R. 824, 93d Cong., 1st Sess. (1973). Allows Reservists and National Guardsmen to receive retirement pay at age 55 for nonregular service. (Rep. G. V. Montgomery (D-Mississippi)).[18]

Bills to provide incentives for Reserve service:

Senate bills:

S. 1,470, 92d Cong., 1st Sess. (1971). Provides enlistment bonuses for Reservists. The bill was "mandated" by R.O.A. (Sen. Strom Thurmond (R-South Carolina); Sen. Edward Gurney (R-Florida)).[19]

S. 3,360, 92d Cong., 2d Sess. (1972). Provides payment of enlistment and re-enlistment bonuses to Reservists. (Sen. John Tower (R-Texas)).[20]

S. 937, 93d Cong., 1st Sess. (1973). Provides payment of enlistment and re-enlistment bonuses to Reservists. (Sen. Strom Thurmond (R-South Carolina)).[21]

---

[16] *Id.*

[17] *Id.*

[18] *CCH Congressional Index—93d Congress.*

[19] *CCH Congressional Index—92d Congress;* 117 *Cong. Rec.* 9,170-1 (1971); *The Officer,* December, 1971 at 24. The R.O.A. has a Legislative Committee, traditionally composed of reservists in the House and Senate, which drafts bills for R.O.A. Levantrosser, Congress and the Citizen-Soldier 82, 107, 116, 191, 196 (1968); See *The Officer,* May, 1973 at 12; June, 1973 at 10; pp. 35a-36a, 37a-38a, *infra.* "Mandate" appears to refer to R.O.A.'s specific interest in a bill and support of its passage.

[20] 118 *Cong. Rec.* S3,999 (daily ed. March 15, 1972).

[21] 119 *Cong. Rec.* S2,965 (daily ed. February 21, 1973).

House bills:

H.R. 6,724, 91st Cong., 1st Sess. (1969). Provides incentives for participation in the Ready Reserves. (Rep. William Bray (R-Indiana)).[22]

H.R. 6,051, 92d Cong., 1st Sess. (1971). Establishes incentives for participation in the Ready Reserves. (Rep. G. V. Montgomery (D-Mississippi)).[23]

H.R. 15,501, 92d Cong., 2d Sess. (1972). Identical to H.R. 6,051. (Rep. Sikes (D-Florida)).[24]

H.R. 13,807, 92d Cong., 2d Sess. (1972). Establishes incentive plan for Ready Reserve participation. (Rep. Charles Bennett (D-Florida)).[25]

H.R. 87, 93d Cong., 1st Sess. (1973). Provides incentive plan for participation in the Ready Reserves. (Rep. Charles Bennett (D-Florida)).[26]

Miscellaneous benefits:

Senate bills:

S. 452, 92d Cong., 1st Sess. (1971). Allows enlisted men to credit Reserve service for retirement pay purposes. The bill was mandated by R.O.A. (Sen. Daniel Inouye (D-Hawaii)).[27]

S. 806, 92d Cong., 1st Sess. (1971). Authorizes medical, dental, and other benefits for Reservists and National Guardsmen under certain conditions.

---

[22] *CCH Congressional Index—91st Congress.*

[23] *CCH Congressional Index—92d Congress.*

[24] *Id.*

[25] *Id.*

[26] *CCH Congressional Index—93d Congress.*

[27] *The Officer,* December, 1971 at 24.

The bill was mandated by R.O.A. (Sen John Tower (R-Texas)).[28]

S. 1,471, 92d Cong., 1st Sess. (1971). Provides benefits to survivors of Reservists who die before age 60. The bill was mandated by R.O.A. (Sen. Strom Thurmond (R-South Carolina); Sen. Edward Gurney (R-Florida)).[29]

S. 2,149, 93d Cong., 1st Sess. (1973). Provides benefits to Coast Guard Reservists. (Sen. Russell Long (D-Louisiana); Sen. Warren Magnuson (D-Washington)).[30]

House bills:

H.R. 6,725, 91st Cong., 1st Sess. (1969). Provides proficiency pay for enlisted members of Reserve forces. (Rep. William Bray (R-Indiana)).[31]

H.R. 387, 91st Cong., 1st Sess. (1969). Allows enlisted men to credit Reserve service for retirement pay purposes. The bill was mandated by R.O.A. (Rep. Robert Wilson (R-California)).[32]

H.R. 509, 92d Cong., 1st Sess. (1971). Similar to H.R. 387. The bill was mandated by R.O.A. (Rep. Robert Wilson (R-California).[33]

H.R. 6,049, 92d Cong., 1st Sess. (1971). Provides proficiency pay for enlisted members of Reserve

---

[28] *CCH Congressional Index—92d Congress. The Officer*, December, 1971 at 24.

[29] *Id.*

[30] *CCH Congressional Index—93d Congress.*

[31] *CCH Congressional Index—91st Congress.*

[32] *The Officer*, March, 1970 at 16.

[33] *The Officer*, December, 1971 at 24.

forces. The bill was mandated by R.O.A. (Rep. G. V. Montgomery (D-Mississippi)).[34]

H.R. 6,050, 92d Cong., 1st Sess. (1971). Provides benefits to survivors of Reservists who die before age 60. The bill was mandated by R.O.A. (Rep. G. V. Montgomery (D-Mississippi)).[35]

H.R. 11,447, 92d Cong., 1st Sess. (1971). Provides medical, dental, and other benefits for Reservists and National Guardsmen under certain conditions. (Rep. O. C. Fisher (D-Texas)).[36]

H.R. 12,889, 92d Cong., 2d Sess. (1972). Allows Reservists to be eligible for certain cash awards. (Rep. William Nichols (D-Alabama)).[37]

---

[34] *Id.*

[35] *Id.*

[36] *CCH Congressional Index—92d Congress.*

[37] *The Officer*, December, 1972 at 20.

APPENDIX D

Reservists on the Senate Armed Services Committee: DOD Nominees

The Senate Armed Services Committee is in a key position to influence Department policy. One of its functions is to report to the Senate, for confirmation, on Presidential nominees for high Defense Department positions.

When Roger T. Kelley, nominated to be Assistant Secretary for Manpower and Reserve Affairs, came before the committee to testify, he noted:

> I was reminded early, Mr. Chairman, of the importance of the Reserve components in our local defense system. You may recall when I came before this committee for confirmation, you reminded me that if I did not make Reserve matters a high priority matter, I could anticipate difficulty with this committee, and I have not forgotten that.[1]

At this time, 11 out of 18 member Senators on the Armed Services Committee were reservists.[2]

Other Defense Department nominees were likewise reminded to make Reserve affairs a "high priority matter," particularly with respect to issues personally affecting Reservist-Congressmen. Reservists-Senator Margaret Chase Smith (R-Maine) sounded out nominees Stanley Resor (Secretary of the Army), John Chafee (Secretary of the Navy), Robert Seamans, Jr. (Secretary of the Air Force), J. William Doolittle (Assistant Secretary of the Air Force (Manpower and Reserve Affairs)) and Ernest Massad (Deputy Assistant Secretary of Defense for Re-

---

[1] Hearings on S. 1192, S. 2407 and S. 2546 Before the Senate Comm. on Armed Services, 91st Cong., 1st Sess., Pt. 2, at 1909 (1969).

[2] List of Congressmen-Reservists, furnished by Department of Defense, April, 1970.

serve Affairs), on the question of reinstating the Congressional Reserve Units and allowing Congressmen to earn points toward promotion and retirement.[3] Reservists Senators Strom Thurmond (R-So. Car.) and Daniel Inouye (D-Hawaii) took up the same line of questioning.[4]

Reservist-Senator Barry Goldwater (R-Ariz.) denounced McNamara's 1967 decision to remove Congressmen from the Ready Reserves,[5] and Reservist-Senator Howard Cannon (D-Nevada) urged Doolittle not to be bound by prior Defense Department policy in this matter.[6] Each nominee was asked to report back to the committee after reviewing the matter. Kelley and Massad stated that they had already made recommendations to Secretary of Defense Laird in support of re-establishing the Congressional Unit.[7]

---

[3] Hearings on the Nomination of Stanley R. Resor to be Secretary of the Army, John Chafee to be Secretary of the Navy and Robert Seamans, Jr. to be Secretary of the Air Force, before the Senate Comm. on Armed Services, 91st Cong., 1st Sess. at 5, 15, 26 (1969). Hearings on Nomination of J. William Doolittle to be Assistant Secretary of the Air Force, before the Senate Comm. on Armed Services, 90th Cong., 2d Sess at 23 (1968). Hearings on S. 1192, S. 2407 and S. 2546, before the Senate Committee on Armed Services, 91st Cong., 1st Sess. at 1931 (1969).

[4] Hearings on the Nomination of Stanley R. Resor to be Secretary of the Army, John Chafee to be Secretary of the Navy and Robert C. Seamans, Jr. to be Secretary of the Air Force, before the Senate Comm. on Armed Services, 91st Cong., 1st Sess. at 6, 7. Hearings on S. 1192, S. 2407 and S. 2546, before the Senate Comm. on Armed Services, 91st Cong., 1st Sess., at 1924, 1925 (1969).

[5] Hearings on S. 1192, S. 2407 and S. 2546, before the Senate Comm. on Armed Services, 91st Cong., 1st Sess., at 1924 (1969).

[6] Hearings on Nomination of J. William Doolittle to be an Assistant Secretary of the Air Force Before the Senate Comm. on Armed Services, 90th Cong., 2d Sess. at 24 (1968).

[7] Hearings on S. 1192, S. 2407 and S. 2546 Before the Senate Comm on Armed Services, 91st Cong., 1st Sess., at 1924, 1931 (1969).

APPENDIX E

Miscellany

1. In 1963 Representative Ed Edmondson of Oklahoma inserted into the Congressional Record remarks by Congressman Clark Thompson of Texas (a retired Army Reserve Colonel) in a newsletter to his constituents. 109 Cong. Rec. 13334 (1963). Congressman Thompson attributed his initial decision to enter Congress to the suggestions of fellow Reservists, and added:

> "My knowledge of the need of national defense came largely through my membership in the reserve . . . . I have cast some votes which were more intelligent because of my intimate knowledge of the workings of the armed forces."

2. In that same year Congressman Carl M. Vinson inserted in the Record a resolution of the Reserve Officers' Association announcing that the R.O.A. "would perpetuate a tribute to the citizen-soldier Members of the Congress of the United States by establishing in the Memorial Building a Congressional Hall." 109 Cong. Rec. A4283-4 (1963).

3. From the debates on the National Reserve Act of 1955, 101 Cong. Rec. 6493-94 (1955) (House of Representatives) Mr. Nelson (of Maine):

> Who am I to question the judgment of the greatest military geniuses of our time . . . I would, however, in the small time allowed to me, as a plain country lawyer from Maine, as a man who has served his country, and who has served in a Reserve unit and who is presently a member of the Air National Guard, like to express the doubts which I have about this bill . . .
>
> (Nelson went on to cite opposition to the bill within "the Air Force Association, the Naval Reserve Association, the National Guard, and the Air National

Guard". At this point Chairman Vinson of the Armed Services Committee responded.)

Mr. Vinson:

> The gentleman is a member of the Committee on Armed Services, and he had ample opportunity there in the committee to point out what should take the place of this program. I am not trying to be critical, but I would appreciate it, and the Congress would appreciate it, and the committee would be benefited if the gentleman would offer his alternative to this proposition.

Mr. Nelson:

> Well, there are a good many alternatives, I would say to my distinguished chairman. I would just suggest one to him that was suggested to me by the members of the National Guard. The National Guard feel they could completely and adequately take care of this problem if their appropriation was increased and their quota increased to take care of this number of men, 100,000 a year. But the Army does not want them in the Guard.

(Chairman Vinson subsequently introduced a new bill, H.R. 7000, 84th Cong., 1st Sess., "omitting almost all provisions dealing with the National Guard" to which the Guard had objected. Levantrosser, *Congress and the Citizen-Soldier* 66 (1968).)

4. From the same debates, 101 Cong. Rec. 6503-04 (1955). Mr. Teague (of Texas) (arguing for more emphasis on the Reserves):

> I received my Reserve commission back in 1933 and kept my Reserve commission and kept up my Reserve work—not because of any encouragement or help from the Regular service but in spite of them. . . .

Mr. Chairman, in closing I would like to say that the reservist is a needed individual in the defense scheme of our country. He is the best friend that the Department of Defense has because he will support any worthwhile legislation or any congressional budget within reason for the improvement of national defense. In peace he will give up his recreation and spare time to carry on his military training. In war he will liquidate his business and professional career to serve in the Armed Forces. He only asks for the right to train and serve in the highest capacity in which he is capable—to be recognized and treated as an equal part in the service of his country. A civilian soldier in peace or in war is a valuable part of our Nation's security forces.

5. From the same debates, 101 Cong. Rec. 6555 (1955). Mr. Van Zandt (of Pennsylvania):

Mr. Chairman, I rise in support of H.R. 5297, a bill which in my opinion, will provide the Nation with an adequate Reserve. It appears that to qualify for the purpose of discussing this bill one should mention his military background. I should like to point out that on April 29, 1955, I finished 38 years as a member of the United States Naval Reserve. I now command a brigade of Naval Reserves; 60 divisions, 3000 men. I attend drills regularly, and tonight if any of you want to visit our unit, if you will come down to the Auditorium on Constitution Avenue you will see one of the units in action. Therefore, I feel qualified to talk about the Reserves. . . .

I recall when World War II broke out. Those of us in the Reserves quit our jobs. I resigned my seat in Congress and took up my commission as an officer aboard a destroyer in the North Atlantic. A lot of us oldtimers in the Reserves have worried about the future of the Reserves and, in my opinion, we are in favor of this legislation almost unanimously.

6. Hearings, *National Reserve Plan*, F.R. 2967, before the House Committee on Armed Services, Committee Paper No. 11, 84th Cong., 1st Sess. (1955), p. 1742.

Mr. Brooks (of Louisiana, subcommittee chairman, introducing Senator Strom Thurmond of South Carolina as a witness):

> I know of your record as Governor of South Carolina and late president of the Reserve Officers Association, and now United States Senator you have, in effect, three hats to wear.
>
> This morning we will be glad to hear from you in any one of these capacities or all three.

Senator Thurmond: . . . .

> I am Strom Thurmond, national president of the Reserve Officers Association. It is a pleasure and a privilege for me to appear before this distinguished group to present the views of our association on the various steps that need to be taken to strengthen the Reserve Forces of our country.
>
> • • •
>
> The Reserve Officers' Association supports fully the broad objectives and aspects of the administration's plan to strengthen the Reserve Forces. It does, however, disagree with some of the details of the bill being considered and also certain of the purposes which this bill is designed to accomplish.
>
> • • •

pp. 1743-44:

> . . . we created within the Reserve Officers' Association a committee of extremely competent and experienced Reserve Officers from all services, headed by Brigadier General Wendell Westover of Albany, New

York. This committee was directed to study all facets of this problem and to bring forth in general terms a plan which could serve as a basis for our association's position in the steps being taken to improve our Reserve structure. It reported on February 6, 1955 . . . The committee had the benefit of much of the thinking that had gone on within the Defense Department and the Office of Defense Mobilization, and in my opinion has completely met the difficult problems presented to it.

Incidentally, Mr. Chairman, I must call your attention to the wonderful cooperation that now exists between these two Government agencies and our organization. The association has been proud of the opportunity given it to work with them in considering the various aspects of the Reserve problem which led to the legislation presently before you. We feel that this committee should know of our high opinion of the diligent effort and intelligent leadership that has been given to this problem by the Assistant Secretary of Defense for Manpower and Personnel, Mr. Carter L. Burgess, and the Director of the Office of Defense Mobilization, Dr. Arthur S. Fleming. We feel that they are to be complimented on evolving a platform on which, with certain modification, we believe a proper Reserve can be developed.

The association plan, predicated on our committee report, is not intended to be a substitute for the Department of Defense recommendations but rather provides an augmentation and a more speedy implementation of certain aspects of their program. We have attached to our statement a copy of this report and request it be made a part of the official record on this bill.

7. (Contemporaneously, Senator Thurmond published articles in the Reserve Officers' Association journal, *The Reserve Officer.*)

Vol. 31, February, 1955:

Thurmond, *For Which So Many Have Died:*

> Reservists as typical Americans saw their country as a way of life composed of many wonderful ideas; and what's more, promised themselves if they came out alive to do something to achieve them, such as:
>
> Every man has a responsibility to the defense of his homeland and should have the opportunity to prepare himself accordingly.
>
> That Regulars and Reserves are members of one team—that neither occupies a privileged status over the companion component.
>
> That recognition, opportunity and advancement in the military forces must be on an equitable basis. . . .

Vol. 31, March, 1955:

Thurmond, *Red Ink or Red Soldiers:*

> We do not want a national budget written in red ink any longer than is necessary, but if the choice is between red ink on our books and red soldiers on our door steps, then I know we would all choose the red ink on our books.
>
> At present, our reserves comprise almost skeleton units that are not in what we would call a state of combat readiness. We lack the personnel, adequate training facilities, modern equipment, and the latest weapons of war. Once our needs are fulfilled, however, we can build a strong combat-ready reserve, and we can maintain several reservists for the cost of one regular.
>
> We would then be in a position to kill two birds with one stone: remain strong both militarily and economically. Regardless of whether the regular establish-

ment is reduced, the position of the ROA is that a strong reserve force be built up as the reserve is the heart and core of our national defense program. It is imperative that the full energies of our nation's military and civilian authorities be translated into positive action for the buildup and maintenance of a strong ready reserve force.

Vol. 31, July, 1955:

National President's Report (upon the end of Senator Thurmond's term of office as President of ROA):

Despite the demands upon a United States Senator, it has been possible for me to visit many of our Departments and Chapters during the past year. Frankly it has not been easy. However, my sincere admiration for those contributing to ROA's progress and stability encouraged me to find ways and means of sharing your meetings. Consequently, at every opportunity I accepted invitations to address ROA and reservist meetings.

... During the past year, I have had the pleasure of at least six meetings with President Eisenhower. Our subjects of conversation concerned the Reserve Forces and ROA. We discussed the steps necessary for improving the morale, welfare, and status of the Reserve officer and his counterpart in the Regular Establishment. We also discussed the need for a revitalized Reserve as featured in the National Reserve Plan.

Contacts with Pentagon officials during the past year have been too numerous to mention.

On several occasions the ROA vice presidents came to Washington and joined me in Pentagon conferences. Appearances at appropriate times were made before the Reserve Forces Policy Board of the Secretary of Defense. In all our contacts, individually and col-

lectively, we left no doubt as to ROA's determination to achieve a truly Ready Reserve, so necessary to national defense and the future of our country.

May I say at this point, that never in the history of our Association has our relationship with Pentagon officials—both civilian and military—been as pleasant and harmonious as at present. A "new look" has developed in Defense Department attitudes toward ROA. A large portion of this change is due to the fine cooperation of defense leaders . . . [Assistant Secretary Carter] Burgess and several of the others are reserve officers and their broad experience in military matters and keen insight to Reserve problems have made them valuable leaders in our Defense establishment.

These far-sighted gentlemen recognize that ROA is a buttress of strength in support of adequate national defense. They are aware of the citizen-reservist's ability to walk sometimes where Regulars fear to tread.

Thus, in the past year, many positive steps toward progress have been recorded through better understanding and cooperation. We of ROA should exert every effort to promote and sustain this cooperation.

8. Hearings, *Proposed Reduction of National Guard* before the House Committee on Armed Services, Committee Paper No. 77, 85th Cong., 2d Sess. (1958).

Testimony of Representative Leroy Anderson of Montana, p. 5789:

I am the commanding general of the 96th Infantry Division (Reserves) which is the major Reserve organization in the Rocky Mountain States of Montana, Idaho, Utah, and Arizona. I have for many years been a member of the Reserve Officers' Association Army affairs committee and I am a member of the advisory board of

the Senior Reserve Commanders' Association which includes most of the general officers of the Army Reserve, ...

Civic, business, and political leaders frequently belong to the Reserve unit in their community .... In 1948, my chief of staff was elected to be governor of the great state of Montana. He continued on as my chief for some months, but the workload got so heavy he said he'd have to give up one of his jobs.

p. 5792:

Speaking as a Reserve Commander, I, together with other representative Reserve commanders, members of the panel of the General Staff Committee on National Guard and Army Reserve Policy, and officers and representatives of the Reserve Officers' Association have seen and to some extent studied the proposed revised USAR troop basis.

These reserve leaders have expressed deep concern over any loss in units. They deplore any further reductions from the presently authorized—10—USAR combat divisions.

May I emphasize that the original troop structure of the Reserve components of the Army provided for 25 Army Reserve combat infantry divisions. This original authorization of 25 divisions was reduced to 10, as a result of the last reorganization of the Reserve troop structure. As a Reserve commander, I must voice the unanimous opinion of all reservists: We cannot accept a still further reduction of these combat divisions. Reductions from the present USAR divisional authorization, together with other unit losses, particularly higher headquarter type units—corps and brigades—staffed by field grade officers, will not be easily accepted by members of the Army Reserve.

9. Address by Sen. Margaret Chase Smith (Lt. Col., Air Force Reserve) to the 29th convention of the Reserve Officers Association (ROA), *The Reserve Officer*, Vol. 31, August 1955, pg. 12:

> . . . For a decade now I have been fighting for Reserve measures—for realistic Reserve measures—for Reserve parity with the Regulars . . . I introduced a bill to provide for inactive training pay . . . a bill to provide for Reserve retirement . . . a bill to provide death and disability coverage for Reservists in that hiatus period when the shooting had stopped but the war status had not been declared at an end.

10. Report of the Legislative Committee of the ROA, *The Officer*, Vol. 25, July 1959, pg. 11, Rep. Leroy Anderson (Chairman):

> Now it can be reported that our situation in the Congress is favorable and that there has been no appreciable change in the devotion of the Congress to the Reserve Tradition. Much of this, of course, is due to the persistent application to their duties of your ROA representatives.

11. *The Officer*, Vol. 25, September 1959, pg. 3:

> Traveler—Rep. LeRoy Anderson (Major General, USAR) is traveling to the Middle East for the House Armed Services Committee this Fall. He plans to spend two weeks visiting ROA chapters in Europe en route, beginning 20 October, and returning via Orient, Far East, and Hawaii Departments in November.

12. *The Officer*, Vol. 25, October 1959, pg. 8, Col. Jesse B. Stewart, *ROA Legislation as Seen from the Summit:*

> There is no reason why members of Congress should not openly subscribe to this Association's objective, of supporting a military policy designed to guarantee national security. As the 1958-1959 administration in

ROA approached, overtures to a number of Congressmen-members were made, and the response was encouraging. Rep. LeRoy Anderson of Montana, accepted the chairmanship, and serving at the top level with him was the longtime ROA stalwart, Rep. James E. Van Zandt, of Pennsylvania, and among the leaders on the Senate side was Senator Strom Thurmond, of South Carolina, a former National President of ROA. At one of the early meetings, the propriety of the situation was discussed frankly, and it was agreed to look upon the group as the Legislative Advisory Committee, and to look to the ROA professional staff to continue to present the case, in hearings, before various committees.

Van Zandt, a Navy Captain put it this way: "That is just for the sake of comfort. Actually, there could rarely be a situation involving a conflict of interest. For years in the Congress, I have given first thought to representing the views of the people of my district, and my activities in various Citizen groups has helped me, I think to be a better Representative."

13. *The Officer*, Vol. 26, March 1960, pg. 5, Report of the Legislative Advisory Committee of the ROA:

Rep. Robert Sikes, Chairman

There are about 175 Reserve Officers or former Officers in the Congress—probably the largest single group with special knowledge in the Congress. Our committee represents, however, not simply this group but the entire Congress. I can't believe that there is any especial tinge to the patriotism of an officer that cannot be found to be the general mark of the entire Congress, for the United States has a good Congress . . .

Yet, by careful planning, skillful presentations, and forceful logic, we came to the end of the halfway mark in the 86th Congress—the adjournment *sine die*

of the First Session, to note that one after another an amazing series of ROA sponsored bills had been passed by both houses and signed by the President.

14. *The Officer*, July, 1960, pg. 10, Vol. 36, Report of the Legislative Advisory Committee of the ROA, Rep. Sikes:

> . . . We in ROA who also belong to Congress have this year committed ourselves to work shoulder-to-shoulder with you. It is now your turn again.

15. *The Officer*, Vol. 38, August 1962, pg. 26, Legislative Report, Senator Ralph Yarborough:

> [discussing the call-up of 150,000 reservists the previous year]
>
> . . . in the Army the administrative errors had created problems which generated confusion, dissatisfaction with Reserve programs, and handed to those hostile to the Citizen-Reservist tradition weapons which they did not hestitate to use with effectiveness.
>
> Our Association responded, of course, by fighting back. Over a period of months we engaged in a propaganda war. I will say to the credit of our staff, and to those in the Congress who understand and support the great Citizen-Reserve concept, that while substantially outnumbered and forced to fight against those with almost limitless resources and manpower, ROA had done a magnificient job.

16. *The Officer*, Vol. 39, pg. 11, The New ROA Legislative Affairs Committee:

> Sen. George Smathers upon accepting the Chairmanship:
>
> "ROA's unique character and activity is reassuring, as well as inviting to all of us in Congress who support the Association's aims."

Committee members:

Sen. Ralph Yarborough	Rep. Stephen Derownian
Sen. Hugh Scott	Rep. William Mailliard
Sen. Gordon Allott	(Calif.)
Sen. Barry Goldwater	Rep. Carl Albert
Sen. Strom Thurmond	Rep. Ray Roberts (Tex.)
Sen. Howard Cannon	Rep. Clement Zablocki
Rep. Robert Sikes	Rep. Charles Chamberlain

17. *The Officer*, Vol. 40, November 1964, pg. 10, "Sikes is a Real Soldier," Col. John T. Carlton:

> [discussing the 42nd anniversary meeting of the ROA in Omaha]
>
> . . . Congressman Bob Sikes is a serious Reserve Officer, dedicated in his service as an ROA member, and with a keen insight into military problems, an earnest and highly motivated Citizen leader. He is a "good soldier." He has given fully of his time and talents whenever ROA has called upon him. He has established the setting and the spirit which has enabled the Association to maintain its high prestige and to roll up a quite remarkable record in 1964 as in the past.

18. *The Officer*, Vol. 42, August 1966, pg. 11, Remarks of Rep. Sikes to the 40th Annual Convention of the ROA:

> We must seize initiative and press forward. We need the enactment of legislation which will preserve and protect the Reserves. The evidence of the past 18 months has made it perfectly clear that the Congress if it is to carry out its constitutional responsibility must specify in detail the national policy and law governing this very important element of our national security team.
>
> We need a Bill of Rights for the Reserves.

REPLY BRIEF OF PETITIONER

In the Supreme Court of the United States

OCTOBER TERM, 1973

No. 72-1188

JAMES R. SCHLESINGER, SECRETARY OF DEFENSE, ET AL., PETITIONERS

v.

RESERVISTS COMMITTEE TO STOP THE WAR, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

REPLY BRIEF FOR THE PETITIONERS

1. In the district court respondents' claim that they had standing to maintain this suit as citizens was rested upon their "interest in" and "right to" the "unbiased consideration by the Congress" of military matters (App. 41-42). They now assert, however—presumably in response to our argument (Pet. Br. 8, 16) that they were merely asserting a "general interest, common to all citizens, in constitutional governance" which was "divorced of any concrete impact" upon themselves—that their complaint alleges "very specific injuries" to "respondents' ability to persuade the Congress in directions favored by respondents" and to their ability "to join with others in an effort to make political advocacy effective" (Resp. Br. 7, 11).

Nowhere in the complaint, however, did respondents refer to any particular legislation they supported with

respect to which the membership of Congressmen in the reserves resulted in unfair or inadequate Congressional treatment of the legislation. The simple fact is that respondents simply have not alleged any specific, perceptible injury to themselves. That respondents are merely seeking to use the court to air their political grievances and to obtain a judicial resolution of them is confirmed by the following statement in their brief (p. 10):

> The familiar decisions of this Court that have narrowed the obstacle of standing demonstrate a commitment to permitting important grievances of private citizens against an increasingly all-powerful government to be litigated in the courts, not fought in the streets. * * *

2. Respondents' claim of standing as taxpayers fares no better. Nowhere in the complaint did respondents challenge any specific appropriations for, or any legislation involving, the Armed Forces. The complaint (App. 37-51) merely challenges the legality of the status of Congressmen as reservists. There is no challenge to the exercise of Congressional power under Article I, §8, or to any Congressional enactment. As we pointed out in our main brief, "[b]y no stretch of the imagination can the situation complained of, the presence of congressmen in the reserves, be called congressional action under the taxing and spending clause" (p. 23). Not only do respondents thus fail to meet the first aspect of the limited basis upon which taxpayers were granted standing in *Flast* v. *Cohen*, 392 U.S. 83—that they must demonstrate the unconstitutionality "of exercises of congressional power under the taxing and spending clause" (p. 102)—but they also do not satisfy the second requirement that they "must show

that the challenged enactment exceeds specific constitutional limitations imposed upon the exercise of the congressional taxing and spending power" (pp. 102-103). The claim that the holding of reserve commissions by Members of Congress constitutes "holding [of] Office under the United States" in violation of Article I, Section 6, Clause 2 of the Constitution does not come within the latter condition.

3. Finally, respondents urge that the limitations in Article I, Section 6, Clause 2 are a restraint not only upon the Legislative Branch, but also upon the Executive Branch. The Clause in terms does not so provide. Its prohibition is that "no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office." Moreover, as shown in our main brief (pp. 31-42), both the history of the provision and Congressional interpretation of it have treated it as imposing a qualification for membership in Congress, not a limitation upon the Executive Branch in making appointments to office there. To whatever extent the Executive Branch may be guided by or observe the prohibition, that is a matter within its discretion. It is not something that the courts should attempt to impose upon the Executive Branch.

Respectfully submitted.

ROBERT H. BORK,
Solicitor General.

JANUARY 1974.

DOJ-1974-01